IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

Bail Appl..No. 6295 of 2007()

[OR.NO.15/2007(N) OF NACHIVAYAL FOREST STATION, IDUKKI DISTRICT]

: PETITIONER/ACCUSED

SASIKUMAR, S/O. SIVARAJAN,
POOCHAKKARA HOUSE, MARAYOOR GRAMAM,
MARAYOOR VILLAGE, DEVIKULAM TALUK, IDUKKI DIST.

BY ADV. SRI.JOICE GEORGE

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE DEPUTY RANGE OFFICER,
NACHIVAYAR FOREST STATION, MARAYOOR RANGE,
MARAYOOR P.O., IDUKKI DISTRICT.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6295 of 2007

Dated this the 23rd day of October 2007

O R D E R

Application for anticipatory bail. The petitioner is the fourth accused. He faces allegations under the Kerala Forest Act. Altogether there are five accused persons. The prosecution alleges that on 30/7/2007, in a vehicle driven by the first accused, sandal wood pieces were attempted to be transported. When the vehicle was intercepted, the first accused took to his heels. He later surrendered before the learned Magistrate. Interrogation of the first accused led to the identification of the role played by accused 2 and 3. Their interrogation led to the role played by the fourth accused. According to the prosecution, the second accused and the fourth accused were engaged as forest watchers. While in such employment, they allegedly removed the sandal wood pieces from the forest. They, in collusion with the other accused, were indulging in the trade of sandal wood pieces. The petitioner has not been arrested so far. Indications and information about his complicity have been

collected from the accused arrested so far. The petitioner faces imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is innocent. He may not be subjected to vexatious arrest and detention. He is willing to abide by any conditions. He may be granted anticipatory bail, submits the learned counsel for the petitioner.

3. The application is opposed by the learned Public Prosecutor. The learned Public Prosecutor submits that the allegations are serious. The petitioner, employed as a forest watcher, had engaged himself in the questionable and culpable activity. Extraordinary equitable discretion under Section 438 Cr.P.C may not be invoked in favour of the petitioner. The petitioner may be directed to surrender before the investigating officer or the learned Magistrate and seek regular bail, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am unable to perceive any features in this case which can justify or warrant the invocation of the extraordinary equitable discretion under

Section 438 Cr.P.C. This, I am satisfied, is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007